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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,906	10/08/2003	Yasuji Tabata	6340-000040	6358

27572 7590 11/03/2006

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT	PAPER NUMBER
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3782

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/680,906

Applicant(s)

TABATA, YASUJI

Examiner

Justin M. Larson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☒ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) ☐ Notice of Informal Patent Application |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because Examiner believes line 10 should read, "projecting outside of the rear portion..."

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazunari (JP 2002125282) in view of Masakki (JP 10210120), and further in view of Taylor (US 3,710,784).

Regarding claim 1, Kazunari discloses a holder for transmitting the vibration of an audio device to the arm of a wearer comprising: a pocket portion (11), a band portion (1) for fastening the pocket portion on an arm of a wearer; and a vibration transmitting member (16) arranged on the rear portion of the pocket portion, but fails to disclose one side of the vibration transmitting member projecting into the pocket portion, as it appears that the vibration transmitting member is simply applied to the rear surface of the pocket, and also fails to disclose recesses or projections on a portion of the vibration transmitting member that contacts the user's arm.

Regarding the vibration transmitting member projecting into the pocket portion, Masakki discloses a holder for transmitting vibration to a wearer (on a belt instead of the

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arm) and teaches that a vibration transmitting member (8) protrudes through the back wall of pocket (7) and into the pocket, one portion of the vibration transmitting member contacting the wireless device and another portion contacting the belt of the wearer to transmit the vibration there between. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holder of Kazunari by inserting a vibration transmitting member, such as that disclosed by Masakki, through the back wall of the pocket, as taught by Masakki, so that a portion of it directly contacted the device held in the pocket in order to more directly transfer the device's vibrations to the arm of the wearer.

Regarding the recesses and projections, Taylor also discloses a vibration-transmitting member (14) and teaches that a variety of protrusions (26) may be provided on the surface of the vibration-transmitting member to provide a certain feel to the user and better distribute the vibrations (col. 2 lines 46-58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include protrusions on the arm-contacting surface of the modified Kazunari holder, as taught by Taylor, in order to provide a certain feel to the user and to better distribute the vibrations from the device.

Regarding claim 2, the vibration-transmitting member of the modified Kazunari holder is plate shaped and has a wireless device contacting surface and an arm-contacting surface.

Regarding claim 4, the vibration-transmitting member of Masakki has spherical members (8a) that help transmit vibrations through the member.

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4. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazunari in view of Masakki, and Taylor as applied to claim 1 above, and further in view of Fujihashi (US 6,478,205 B1).

The modified Kazunari holder includes the claimed features except for the vibration transmitting member providing wave-shielding and antistatic functions.

Regarding the wave-shielding function, Fujihashi teaches that a wave-shielding sheet of material (10) on the rear surface of a holder protects a user from the adverse effects of electromagnetic waves generated by the device held in the holder (col. 3 line 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a wave-shielding layer of material on the rear surface of the modified Kazunari holder including a surface of the vibration-transmitting member, as taught by Fujihashi, in order to protect a user from electromagnetic waves.

Regarding the antistatic function, Fujihashi teaches that a holder can be coated in an antistatic finish (col. 7 line 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to coat the modified Kazunari holder, including the vibration-transmitting member, with an antistatic finish, as taught by Fujihashi, in order to prevent a static charge from building up on the holder/vibration-transmitting member. Such a charge could shock the user or damage a delicate electronic device held within the holder.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kazunari in view of Masakki, and Taylor as applied to claim 1 above, and further in view of Toyooka (US 6,504,928 B1).

The modified Kazunari holder includes the claimed features except for the vibration-transmitting member providing an antibacterial function.

Toyooka, however, teaches that the user-contacting portions (2) of a holder are coated with a layer of material (5) having a soft finish for user comfort and also having antibacterial properties to prevent a user from pathogenic bacteria or fungi (col. 8 line 50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a layer of soft, antibacterial material on the modified Kazunari holder, as taught by Toyooka, in order to provide the user with a comfortable holder and a holder that was less susceptible to bacteria build up. It would be especially important to coat the vibration-transmitting member with the antibacterial layer since this portion of the holder directly contacts the skin of the user when the holder is worn on a user's arm.

Response to Arguments

6. Applicant's arguments filed 9/29/06 have been fully considered but they are not persuasive.

In response to applicant's argument that Taylor is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both Taylor and Applicant are concerned with providing a series of projections on a vibrating

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member such that the projections transfer vibrations to a user so that the user may feel the vibrations.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Villanueva et al. (US 4,754,901) teaches that a series of projections on a surface provide improved frictional grip (col. 5 line 65 – col. 6 line 2).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
10/26/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER